

Message Text

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PAGE 01 STATE 239982

70

ORIGIN EB-06

INFO OCT-01 EA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

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FM SECSTATE WASHDC

TO AMEMBASSY BANGKOK IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, TH

SUBJECT: CIVAIR CONSULTATIONS

REF: BANGKOK 17242

FROM ENDERS FOR USDEL

1. WE HAVE NO PROBLEM IN PRINCIPLE WITH CONCEPT OF BROAD
THAI ROUTE DESCRIPTIONS IN ROUTE SCHEDULE AND SEPARATE
LANGUAGE RESTRICTING EXERCISE OF TRAFFIC RIGHTS ON FIFTH
FREEDOM SECTORS AND IMPOSING HONOLULU MANDATORY STOP.
HOWEVER, UNLESS THIS SEPARATE LANGUAGE IS LEGALLY PART OF
AGREEMENT, IT WOULD HAVE NO BINDING EFFECT AND COULD, FOR
EXAMPLE, POSE PROBLEM FOR CAB IN ISSUING 402 PERMIT WITH
TRAFFIC RESTRICTIONS. THERE IS ALSO PROBLEM WITH USE
OF "INTENT" LANGUAGE, SUCH AS IN PARA 2 REFTL, SINCE
INTENTIONS CAN BE UNILATERALLY CHANGED. EXPLICIT
DEFINITION OF RESTRICTIONS IN ROUTE SCHEDULE WOULD BE
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PAGE 02 STATE 239982

BEST MEANS OF ACCOMPLISHING THIS, BUT WE UNDERSTAND THIS

WOULD NOT MEET THAI OPTICAL REQUIREMENTS. AN ACCEPT-
ABLE ALTERNATIVE IS TO EXCHANGE NOTES AT TIME AGREEMENT
IS AMENDED READING AS FOLLOWS:

"I HAVE THE HONOR TO REFER TO THE EXCHANGE OF NOTES OF
TODAY'S DATE AMENDING THE US-THAI AIR SERVICES AGREEMENT
OF FEBRUARY 26, 1947, AS AMENDED, AND TO CONFIRM, ON

BEHALF OF MY GOVERNMENT THE UNDERSTANDING REACHED BETWEEN
THE TWO DELEGATIONS WITH RESPECT (THERETO) (TO THE
RIGHTS PROVIDED IN THE AMENDED ANNEX) THAT THAI AIRLINES
WILL NOT EXERCISE TRAFFIC RIGHTS, INCLUDING THE CARRIAGE
OF STOPOVER OR CONNECTING TRAFFIC, BETWEEN TOKYO AND
GUAM, BETWEEN PAGO PAGO AND TAHITI, OR BETWEEN US POINTS
AND POINTS IN THE WESTERN HEMISPHERE OTHER THAN CANADA ON
THAI ROUTE 2, AND, FURTHERMORE, THAT ANY FLIGHTS OPERATED
BY THAI AIRLINES ON THAI ROUTE 2 WHICH SERVE TOKYO AND
LOS ANGELES OR SAN FRANCISCO WILL ALSO SERVE HONOLULU.

I WOULD APPRECIATE RECEIVING YOUR CONFIRMATION THAT THE
RTG ALSO ACCEPTS THIS UNDERSTANDING".

2. WE NOTE THAT USDEL FORMULATION WOULD GIVE THAI
AIRLINES BLIND SECTOR RIGHTS BETWEEN US AND LATIN AMERICA
AND CARIBBEAN. WHILE THESE ARE NOT OF SIGNIFICANT VALUE,
USDEL SHOULD ATTEMPT TO REVERT TO PROPOSAL MADE EARLIER,
NAMELY THAT BEYOND RIGHTS ON THAI ROUTE 2 READ "AND
BEYOND TO CANADA AND EUROPE AND BEYOND". HOWEVER, IF NOT
ACCEPTABLE TO THAIS, WE PREPARED AGREE TO OPEN BEYONDS ON
ROUTE 2 WITH BLIND SECTOR RESTRICTION FOR WESTERN
HEMISPHERE OTHER THAN CANADA.

3. THAI ROUTE 2 (IN THAI DOCUMENT 1) MUST CLARIFY
QUESTION "LOS ANGELES, SAN FRANCISCO OR SEATTLE".
INTENTION IS THAT THAIS MAY SELECT ANY ONE OF THESE POINTS
UPON NOTIFICATION TO USG AND CHANGE THAT SELECTION, AGAIN
UPON NOTIFICATION TO USG, PROVIDED AT LEAST CERTAIN
AMOUNT OF TIME HAS PASSED SINCE PREVIOUS SELECTION. THIS
PERIOD OF TIME SHOULD BE NO LESS THAN ONE YEAR. ACCEPT-
ABLE LANGUAGE IS AS FOLLOWS: "THE RTG WILL NOTIFY THE
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PAGE 03 STATE 239982

USG OF THE POINT SELECTED. AFTER THE INITIAL SELECTION,
PROVIDED AT LEAST ONE YEAR HAS PASSED SINCE ANY PRIOR
SELECTION, A DIFFERENT SELECTION MAY BE MADE, UPON PRIOR
NOTIFICATION THEREOF TO THE USG".

4. I ATTACH CONSIDERABLE IMPORTANCE, AS DOES CAB, TO
OBTAINING AN ACCEPTABLE MEASURE OF RELIEF FROM BOTH
EXISTING AND POSSIBLE FUTURE THAI RESTRICTIONS. USDEL

SHOULD INFORM THAIS THAT THIS MATTER HAS BEEN REVIEWED AT SENIOR LEVELS IN WASHINGTON WHICH INSIST THAT ADDITIONAL THAI ROUTES ARE NOT POSSIBLE UNLESS SOME METHOD FOUND TO HANDLE CAPACITY ISSUES BILATERALLY, RATHER THAN UNILATERALLY.

5. WE DO NOT UNDERESTIMATE DIFFICULTIES INHERENT IN CAPACITY AREA, GIVEN LONG STANDING THAI POSITION. WITH REGARD CURRENT RESTRICTIONS, YOU MAY AGREE THAT US CAN LIVE WITH CURRENT FIFTH FREEDOM QUOTAS, BUT AT MINIMUM YOU SHOULD INSIST THAT CARGO RESTRICTIONS BE REMOVED AND PAN AM'S THREE COMBINATION FREQUENCIES RESTORED. AS FOR FUTURE, WE PREFER A PRESCREENING PROCEDURE WITH, IF NECESSARY, MORATORIUM OR OTHER FEATURES FOUND IN OTHER ARRANGEMENTS IN EVENT OF UNSUCCESSFUL EX POST FACTO CONSULTATIONS. IF THIS NOT POSSIBLE, ONLY ALTERNATIVE IS AGREED CAPACITY LEVELS. WHILE WE CAN, ALTHOUGH RELUCTANTLY, SUBSCRIBE TO THIS AS A CONCEPT, IT IS IN FACT IMPOSSIBLE FOR US TO SPECIFY WHAT ACCEPTABLE LEVELS WOULD BE AT THIS TIME BECAUSE OF LEGAL UNCERTAINTY WHETHER TWA WILL REMAIN IN BANGKOK AND BECAUSE PAN AM DOES NOT KNOW WHAT CAPACITY IT WANTS OPERATE IF TWA SUSPENDS BANGKOK SERVICE. IF NEGOTIATIONS REACH THIS STAGE, THEREFORE, WE MAY HAVE TO CONSIDER LEAVING US ROUTE PROPOSALS ON TABLE AND RESUMING TALKS IN THREE OR FOUR MONTHS TO PURSUE CAPACITY ISSUE OR, ALTERNATIVELY AND LESS DESIRABLY, TO INITIAL AD REFERENDUM ROUTE PACKAGE ON UNDERSTANDING IT COULD NOT BE SIGNED UNTIL CAPACITY ARRANGEMENTS AGREED UPON.

6. FOR USDEL'S INFO, WHILE PAN AM REMAINS FORMALLY OPPOSED TO ANY AGREEMENT AT THIS TIME, AND STATES IT PREPARED FACE CONSEQUENCES OF THIS POSITION, IT HAS LIMITED OFFICIAL USE

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PAGE 04 STATE 239982

ADVISED US AT STAFF LEVEL THAT IT COULD LIVE WITH AD REFERENDUM INITIALING OF ROUTE PACKAGE WITH SIGNATURE DEPENDENT ON WORKING OUT CAPACITY ARRANGEMENTS SUBSEQUENTLY, IF FLIGHT 841/842 IMMEDIATELY RESTORED, AND THAIS NOT GIVEN JAPAN (NOT JUST TOKYO) - GUAM, PHILIPPINES - GUAM, HONG KONG - GUAM, AUSTRALIA/NEW ZEALAND - AMERICAN SAMOA, OR BEYOND AMERICAN SAMOA. WE HAVE NOT GIVEN PAN AM ANY INDICATION THAT ANY OF FOREGOING IS POSSIBLE, BUT IMPROVEMENTS USDEL CAN OBTAIN WOULD OF COURSE BE HELPFUL. INGERSOLL

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